

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

v.

AMIN KHOURY,

Defendant

Case No. 20-cr-10177-PBS

DEFENDANT AMIN KHOURY’S SUPPLEMENT TO MOTION TO CONTINUE TRIAL

In further support of Mr. Khoury’s motion to continue the May 31, 2022 trial date, Mr. Khoury states as follows:

1. Yesterday, the government produced almost 40,000 pages of additional discovery, consisting of thousands of pages of historical telephone records / call logs for Mr. Khoury and for Tim Donovan, one of the government’s lead trial witnesses. The discovery also included additional FBI-302 reports, including the report of a recent interview of Matt DeGreeff conducted on April 27, 2022.

2. Mr. DeGreeff is the Director of College Counseling at Middlesex, the boarding school that Mr. Khoury’s daughter attended and where she played tennis. The government has listed DeGreeff as a witness (ECF#109).

3. As described in Mr. Khoury’s Motion to Dismiss or to Disqualify the Prosecution Team (ECF#193), counsel for Mr. Khoury recently learned that when Middlesex produced documents to Mr. Khoury pursuant to an *ex parte* Rule 17(c) subpoena that Magistrate Judge Kelley authorized (the “Ex Parte Subpoenaed Documents”), the government obtained copies of the same documents from Middlesex, in contravention of Magistrate Judge Kelley’s order in *United States*

v. Colburn, where the government was precluded from obtaining from the University of Southern California copies of the same documents that USC had produced to the defendants in response to *ex parte* Rule 17(c) subpoenas. No. CR 19-10080-NMG (ECF#1575), 2020 WL 6566508, at *1 (D. Mass. Nov. 9, 2020).

4. The FBI-302 report documenting the recent interview of Mr. DeGreeff shows that in preparing with Mr. DeGreeff for the upcoming trial, the government asked Mr. DeGreeff to explain one of the Middlesex Ex Parte Subpoenaed Documents, from which Mr. DeGreeff drew conclusions about Mr. Khoury's daughter and her application to Georgetown. As far as counsel for Mr. Khoury can determine, the government did not previously have this document and had not previously confronted Mr. DeGreeff with it.

5. As part of its trial preparation, the government also met with Wesleyan Tennis Coach Michael Fried. The government listed Mr. Fried as a trial witness (ECF#109) and previously met with him on at least two occasions (August 6 and August 19, 2020). However, a recently-produced FBI-302 Report shows that the government met with Mr. Fried a third time, on April 20, 2022, after the government obtained the Ex Parte Subpoenaed Document produced by Donovan Tennis. During this meeting, the government confronted Mr. Fried with one of the Ex Parte Subpoenaed Documents and questioned Fried about it. As far as counsel for Mr. Khoury can determine, the government did not previously have this document and had not previously questioned Mr. Fried about it.¹

Mr. Khoury reiterates his request in his Motion to Dismiss or to Disqualify the Prosecution Team (ECF#193) that the Court convene an evidentiary taint hearing and, to the extent that

¹ Because the Ex Parte Subpoenaed Documents are protected opinion work product, Mr. Khoury requests permission to provide additional details in camera, as the Court may direct.

members of the prosecution team have prepared government witnesses to testify against Mr. Khoury, that serves as further grounds to disqualify those prosecutors.

6. In addition to the new government discovery received last night, yesterday Georgetown University advised counsel for Mr. Khoury that Georgetown has in excess of 20,000 documents responsive to Mr. Khoury's *ex parte* Rule 17(c) subpoena authorized by Magistrate Judge Kelly. As already determined by Magistrate Judge Kelly when she authorized the subpoenas, these documents are relevant to Mr. Khoury's factual and legal defenses. *See Colburn* Order at 3 (a Rule 17(c) subpoena is authorized only if the defendant has shown, among other things, that the subpoenaed documents are relevant and evidentiary, and necessary for the defendant to properly prepare his defense) (citing *United States v. Nixon*, 418 U.S. 683, 699-700 (1974)). However, Georgetown continues to resist complying with the Rule 17(c) subpoena, and today Mr. Khoury sought leave to file under seal a motion to compel production of the Georgetown responsive documents.

7. To provide Mr. Khoury's counsel an opportunity to conduct a meaningful review of the 20,000 documents to be produced by Georgetown and the 40,000 documents produced last night by the government, and to allow the Court adequate time consider and hear Mr. Khoury's motion to dismiss the indictment or disqualify the prosecution team, Mr. Khoury respectfully requests that the Court continue the trial, preferably to the August 15, 2022 backup date, or to any date that is convenient for the Court.

8. Finally, to the extent that Gordon Ernst, the former tennis coach at Georgetown, will be sentenced by Judge Talwani on May 26, 2022 (No. 19-CR-10081, ECF#1193), a continuance of Mr. Khoury's May 31, 2022 trial date is prudent to preserve Mr. Khoury's right to a fair trial in light of the publicity that will likely follow Mr. Ernst's sentencing. Previously, the government

agreed that the sentencing of Mr. Ernst should not take place while the trial of Coach Vavic was ongoing (No. 19-CR-10081, ECF#1192).

Respectfully submitted,

AMIN KHOURY,

By his attorneys,

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Dated: May 11, 2022

CERTIFICATE OF SERVICE

I, Eóin P. Beirne, hereby certify that on May 11, 2022, I filed the foregoing with the United States District Court for the District of Massachusetts using the CM/ECF system and caused it to be served on all registered participants via the notice of electronic filing.

/s/ Eóin P. Beirne
Eóin P. Beirne (BBO # 660885)